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State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

Internal
C0070045

#3349

OK

August 31, 2009

TO: Internal File

FROM: Daron R. Haddock, Permit Supervisor *RDH*

RE: 510 (c) Recommendation for COVOL Engineered Fuels, LC, Wellington Dry-Coal Cleaning Facility, C/007/0045

As of this writing of this memo, there are no NOV's or CO's which are not corrected or in the process of being corrected. There are no finalized civil penalties, which are outstanding and overdue in the name of COVOL Engineered Fuels, LC. COVOL Engineered Fuels, LC does not demonstrate a pattern of willful violations, nor have they been subject to any bond forfeitures for any operation in the state of Utah.

On August 20, 2009, the Applicant Violator System (AVS) indicated that there was one outstanding violation associated with Jim Walters Resources in Alabama. After contacting the Alabama Surface Mining Commission, it was determined that COVOL had nothing to do with the violation and should not be blocked from obtaining a permit.

On August 26, 2009, the Division received documentation from Alabama indicting that the Jim Walters violation should not be linked to COVOL. (See attached email from Carla Lightsey.)

Attachment

O:\007045.COV\FINAL\PERMIT\2009\AVSMEMO.DOC



Daron Haddock - FW: JWR Violation

From: "Lightsey, Carla" <Carla.Lightsey@asmc.alabama.gov>
To: "daronhaddock@utah.gov" <daronhaddock@utah.gov>
Date: 8/26/2009 10:49 AM
Subject: FW: JWR Violation

Per a request from Gina Rau of Covol, I have had the issue of the FTACO issued to Jim Walter Resources on P-3256 and have confirmed that Covol has nothing to do with this violation that it is on one of JWR's impoundments and they are working to abate the violation. You may want to run this by the AVS office for them to make any notes with regard to their recommendation.

Please let me know if you need anything else.

Thank you -

Carla D. Lightsey
Chief, Division of Surface Mining Control and Reclamation
Alabama Surface Mining Commission
P O Box 2390
JASPER AL 35502-2390
205.221.4130

From: McCarthy, Milton
Sent: Wednesday, August 26, 2009 11:25 AM
To: Lightsey, Carla
Subject: RE: JWR Violation

Carla,
I have confirmed with Derek that Covol has nothing to do with this violation. JWR is working to abate the C.O. but has a ways to go. The info. contained in the e-mail from Ms. Rau appears accurate.
Let me know if a more formal response is required.
Thanks,
Milton

From: Lightsey, Carla
Sent: Wednesday, August 26, 2009 11:03 AM
To: McCarthy, Milton
Subject: FW: JWR Violation

Per our conversation, can you research the facts of this and possibly give me the letter they are requesting. I will then forward to UDOGM so they can issue Covol's permit in Utah.

Thanks - Carla

From: Gina Rau [mailto:grau@headwaters.com]
Sent: Tuesday, August 25, 2009 9:02 PM

To: Lightsey, Carla
Subject: JWR Violation

Carla,

ASMC issued a violation on 1/22/2009 to JWR for failure to certify Freshwater Impoundment #2 on ASMC Permit P3256. The impoundment could not be certified because it was too full of solids. JWR worked on cleaning out the impoundment, but was not able to complete the work before the extensions that ASMC granted expired. Therefore, ASMC issued the cessation order for failure to abate the violation on 8/6/2009. Based on conversations with Jerry Pike of JWR, a dredge has been moved into the impoundment and they are currently removing the solids from the impoundment so that it can be certified.

Since the cessation order is on the AVS database and Covol Engineered Fuels is listed as a contract miner on this permit, the Utah Division of Oil, Gas, and Mining (UDOGM) called me last Thursday and said that they can't issue the permit for Covol's Utah facility because there is a permit block on the AVS database that won't be removed until the cessation order is abated. I explained to UDOGM that the violation is associated with JWR's preparation plant, not Covol's operations. UDOGM also spoke with Kathy Box at ASMC. UDOGM told me that if they issued our permit, OSM would have an issue with them. They said that if ASMC would send them a letter stating the order is associated with JWR's plant and not Covol's operations and JWR has committed to and is working to abate the order, then UDOGM could issue the mine permit for Covol's Utah facility. The contact at UDOGM is Mr. Daron Haddock, 1594 West North Temple, Suite 1210, Salt Lake City, UT 84116.

If you need additional information, please let me know. Also, I'm available to meet Thursday morning, if that would help.

Thank you for your help,
Gina

Gina Rau
Environmental Manager
Headwaters, Inc.
Ph: 801-984-3770
Cell: 801-703-7590

Entity Evaluation

Entity Number 158171
Entity Name Covol Engineered Fuels Lc
Date of Evaluation 9/1/2009 9:01:28 AM
Requested Individual suzanne.steab

CAUTION: The Applicant/Violator System (AVS) is an informational database. Permit eligibility determinations are made by the regulatory authority with jurisdiction over the permit application not by the AVS. Results which display outstanding violations may not include critical information about settlements or other conditions that affect permit eligibility. Consult the AVS Office at 800-643-9748 for verification of information prior to making decisions on these results.

There were no violations retrieved by the system

Evaluation OFT

Entities: 23

247060 Earnest Partners - ()
---149912 Headwaters Inc - (Subsidiary Company)
-----061923 James A Herickhoff - (Director)
-----144794 Harlan M Hatfield - (Secretary)
-----144794 Harlan M Hatfield - (Vice President)
-----146994 Steven G Stewart - (Chief Financial Officer)
-----146994 Steven G Stewart - (Treasurer)
-----147759 Raymond J Weller - (Director)
-----147760 Kirk A Benson - (Chairman of the Board)
-----147760 Kirk A Benson - (Chief Executive Officer)
-----147760 Kirk A Benson - (Director)
-----158172 Headwaters Energy Services Corp - (Subsidiary Company)
-----144794 Harlan M Hatfield - (Vice President)
-----146994 Steven G Stewart - (Chairman of the Board)
-----146994 Steven G Stewart - (Chief Financial Officer)
-----146994 Steven G Stewart - (Director)
-----158171 Covol Engineered Fuels Lc - (Subsidiary Company)
-----124297 John R Shaal - (Vice President)
-----144794 Harlan M Hatfield - (Manager)
-----144794 Harlan M Hatfield - (Vice President)
-----146994 Steven G Stewart - (Chief Financial Officer)
-----146994 Steven G Stewart - (Manager)
-----158176 Curtis J Brown - (Secretary)
-----158177 Jason T Day - (Assistant Secretary)
-----248871 William Gehrmann - (President)
-----248873 Scott Ballard - (Treasurer)
-----158176 Curtis J Brown - (Secretary)
-----158177 Jason T Day - (Assistant Secretary)
-----248871 William Gehrmann - (President)
-----248872 Stephanie Black - (Vice President)
-----248873 Scott Ballard - (Treasurer)
-----158207 R Sam Christensen - (Director)
-----158208 William S Dickenson - (Director)
-----158209 E J Garn - (Director)
-----158210 Malyn K Malquist - (Director)
-----158212 Blake O Fisher Jr - (Director)
---247061 Paul Viera - (Chief Executive Officer)
---247062 John Whitmore - (Chief Operations Officer)
---247063 James Wilson Jr - (Chief Financial Officer)

Narrative